

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

93-22

October 18, 1994

IN REPLY REFER TO:

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OCT 18 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

The Honorable Romano L. Mazzoli
Member of Congress
2246 Rayburn House Office Building
U.S. House of Representatives
Washington, D.C. 20515

DOCKET FILE COPY ORIGINAL

Dear Congressman Mazzoli:

This letter responds to your correspondence on behalf of Thomas J. Hartlage regarding charges on his telephone bill and relating to information services provided on 800 numbers. Your letter, as well as the complaint of your constituent, has been referred to the Enforcement Division of the Common Carrier Bureau for review. The Enforcement Division will communicate with your constituent upon completion of its review.

The Telephone Disclosure and Dispute Resolution Act (TDDRA) was enacted by Congress in 1992 and required both the Federal Communications Commission and the Federal Trade Commission (FTC) to adopt rules governing the provision of pay-per-call services. Under the TDDRA, the FCC has jurisdiction over the telecommunications carriers involved in the transmission and billing of the telephone calls, while the Federal Trade Commission has jurisdiction over the information service companies themselves.

The TDDRA generally required pay-per-call services to be provided on 900 telephone numbers and generally prohibited the provision of these services on 800 numbers, except in instances where the caller has entered into a presubscription agreement or comparable arrangement with the information service provider. Pursuant to the Commission's rules, which became effective on September 24, 1993, a presubscription agreement entails a formal contractual understanding whereby the consumer is provided clearly and conspicuously all terms and conditions associated with the use of the service and affirmatively agrees to abide by them.

The Commission has received numerous complaints similar to those described by your constituent. These complaints are processed by the Enforcement Division of the Common Carrier Bureau by serving a copy of the complaint upon the telecommunication carriers involved, who must generally respond in writing within 30 days. Beyond reviewing these

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The Honorable Romano L. Mazzoli
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complaints and pursuing appropriate action to resolve them, the Commission has undertaken several efforts. First, Common Carrier Bureau staff has met with the carriers that provide the billing service for calls to 800 numbers as well as interexchange carriers who provide the 800 number transport to emphasize their obligations under the TDDRA and the rules of the Commission. Secondly, because the increase in the number of complaints has been so significant, we have started an investigation of these practices, with special focus on whether any companies have attempted to evade or violate our rules. Additionally, as part of the effort to make clear the carriers' responsibilities under the law, the Common Carrier Bureau has recently issued a ruling holding that the information provider's receipt of the originating telephone number, a practice that was serving as the premise of some charges, does not in itself constitute a presubscription agreement.

Moreover, on August 2, 1994, the Commission instituted a Notice of Proposed Rulemaking seeking to strengthen Commission rules to prevent abusive and unlawful practices under the TDDRA. Specifically, the Commission has sought public comment on a proposal to require that a presubscription agreement be established only with a legally competent individual and executed in writing, and that common carriers obtain evidence of the written agreement before issuing a telephone bill that contains charges for presubscribed information services. Under the proposed rules, these telephone bills could be addressed only to the individual who actually entered into the presubscription arrangement, not to the person or company whose telephone was used to place the call. The Commission has tentatively concluded that this and other proposed changes would significantly assist in eliminating the source of many consumer complaints. Enclosed is a summary of the Commission's action in this regard.

We appreciate receiving your correspondence. Please call upon us if we can provide any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathleen M.H. Wallman", with a long horizontal flourish extending to the right.

Kathleen M.H. Wallman
Chief
Common Carrier Bureau

Enclosure

ROMANO L. MAZZOLI
THIRD DISTRICT, KENTUCKY

DISTRICT OFFICE
CHARLES MATTINGLY
CHIEF OF STAFF
BRENDA SWEATT

FEDERAL BUILDING, ROOM 216
600 MARTIN LUTHER KING, JR. PLACE
LOUISVILLE, KY 40202-2267
TELEPHONE: (502) 582-5129

Congress of the United States

House of Representatives

Washington, DC 20515-1703

August 12, 1994

COMMITTEES
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CHAIRMAN, SUBCOMMITTEE ON
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WASHINGTON OFFICE
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WASHINGTON, DC 20515-1703
TELEPHONE: (202) 225-5401

cc
cc-800
cc-900
3950

Ms. Lauren J. Belzin
Acting Director, Office of Legislative Affairs
Federal Communications Commission
Room 808
1919 M Street, N.W.
Washington, D.C. 20554

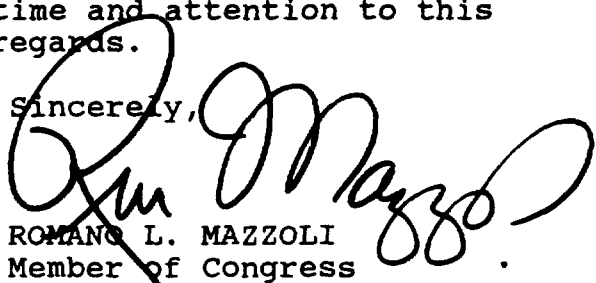
Dear Ms. Belzin:

Enclosed is a copy of a letter I have recently received from a constituent, Mr. Thomas J. Hartlage.

I certainly would appreciate any information you may have on this matter which I could share with Mr. Hartlage. Please direct your reply to my Washington office.

Thanks, in advance, for your time and attention to this matter. With all best wishes and regards.

Sincerely,


ROMANO L. MAZZOLI
Member of Congress

RLM:dma

Enclosure

COMM
DMP

July 31, 1994

6419 Lime Ridge Place
Louisville, KY 40222

President
Interactive Billing Systems
P.O. Box 7869
San Francisco, CA 94120-7869

Dear Sir/Madam:

On Friday, July 29 I received a bill from your company in the mail (copy of said bill is attached). It is supposedly for phone calls made to an adult entertainment phone line. I called your firm on Friday and told them that I had not placed any such calls and to the best of my knowledge my wife had not either. However, the individual I spoke to, Angelica, refused to accept my statement as she said they were billed to my credit card and came from my house. She said I was responsible for the charges. I asked Angelica if your firm had a voice recording of the individual who placed the call and she said yes. When I asked if we could listen to that to confirm that it was not me or my wife, she said she could not do that without permission from the FCC.

After hanging up with Angelica, I remembered that I had not requested that all future calls against my credit card and/or from my home phone number be blocked. I placed another call to your organization asking for this block and requesting written confirmation that I had requested such block. The individual indicated they would begin the process to put such block in place but could not provide me with any documentation. I asked her for a print-out from the computer indicating the request or a hand-written note confirming my request, but against she refused to send me anything.

The purpose of this letter is as follows:

1. to assert under the penalties of perjury, that the only two authorized users of Master Card account 5414-1896-0000-1838 are myself, Thomas J. Hartlage and my wife, Mary J Hartlage.
2. to assert under the penalties of perjury, that neither I nor my wife placed the called on June 8 as set forth on the attached bill
3. to authorize the release of the voice recordings that occurred when these three calls were made since you say I or my wife made these calls and to have my voice and my wife's voice compared to the voice recordings of June 8.
4. to hold you harmless from the release of the voice recordings since you say I or my wife made these calls

5. to formally dispute the charges (individually and collectively) of \$14.85, \$59.60, and \$59.60 as set forth on the attached copy of the bill I received on 7/29/94.
6. to request in writing that all calls from 502-423-7188 be denied access to any services you provide and that Master Card 5414-1896-0000-1838 be blocked from usage with any of your services.
7. that you acknowledge in writing that you have received the request in 6. above.
8. that the charges of \$14.85, \$59.60 and \$59.60 as shown on the attached bill be waived
9. that if this dispute remains unresolved, that you take responsibility for any damage I sustain to my credit history as a result of your actions.
10. to advise you that neither I nor my wife ever requested an IBS Credit Card and to inform you we do not want one and that you should cancel any card issued to me or my wife.

For your information, I recently received my Master Card which also contained some unauthorized calls on it. You might be interested in knowing that according to the service provider, one call was placed on June 11th at 9:35 p.m. and lasted for 21 minutes. Another call was supposedly placed on the same day at 9:40 p.m. and lasted for 4 minutes. Since I only have one phone in my house, I wonder how I can place a new call at 9:40 p.m. when I am already on the phone from 9:35 to 9:56.

All this sounds to me like someone is using technology to get calls billed to another phone and another individual (whose information they may get off credit card receipts at a gas station, restaurant, discount store, etc.)

By copy of this letter to the FCC, the Public Utilities or Service Commissions in California and Kentucky, the telephone companies in Kentucky and California, and representatives in Congress from Kentucky and California, I wish to express my views that all 800 and 900 type of phone service where one incurs charges for information or conversation be banned. If this is unacceptable, might I suggest an alternative, where before such services are used, that users be required to deposit moneys in advance for such services. This would likely reduce the instance of fraud (such as mind) and still provide the service to those who want it. In addition, I would request that all such services (where one could incur a cost) be limited to one area code number and that consumers be allowed to block access to such numbers. (I believe this was the case for 900 numbers, and as my records will indicate, I have a block in place on all 900 calls).

I also request, that if the FCC does prohibit the playback of a voice recording to the individual who asserts they did not place the call, that the law be changed to allow playback in the case of disputes. If the FCC does not prohibit the playback, I request that Interactive Billing Systems be reprimanded by the FCC and the California Public Service Commission for representing the facts as such.

I look forward to hearing from you and reaching a satisfactory conclusion to this dispute.

Sincerely,


Thomas J. Hartlage

Copy to:

Federal Communications Commission
Enforcement Division
Room 6202, Washington D.C. 20554

Consumer Complaints Division
South Central Bell
P.O. Box 32410
Louisville, KY 40232

Kentucky Public Service Commission
Consumer Complaints Division
P.O. Box 615
Frankfort, KY 40602

Senator Mitch McConnell
120 Senate-Russell Building
Washington D.C. 20510

Congressman Romano Mazzoli
2246 Rayburn Building
Washington, D.C. 20515

Ms. Nancy Pelosi
Congresswoman-CA
240 Cannon House Office Building
Washington, D.C. 20515-0508

Senator Dianne Feinstein
331 Hart Senate Office Bldg.
Washington, D.C. 20510-0504

Senator Barbara Boxer
112 Hart Senate Office Bldg.
Washington, D.C. 20510-0501

Consumer Complaints Division
Pacific Bell
140 New Montgomery St.
San Francisco, CA 94105

Consumer Affairs Division
California Public Utilities Comm.
Room 2003
505 Van Ness Ave.
San Francisco, CA 94102



** PLEASE MAIL THIS SECTION WITH YOUR PAYMENT **

PAYMENT METHOD	CHECK	VISA	MASTERCARD
Card No.			Exp. Date
SIGNATURE			
By paying this bill I certify that I am 18 years of age.			

09-502-423-7188
1414-1896-0000-1838
PREVIOUS BAL. \$0.00 PAYMENTS \$0.00 ADJUSTMENTS \$0.00
NEW TOLLS \$134.05
TOTAL \$134.05
\$15.00 RETURN CHECK FEE

SEND CHECK PAYABLE TO:
Interactive Billing Systems™
P.O. Box 7869
San Francisco, CA 94120-7869

THOMAS J HARTLAGE
6419 LIME RIDGE PL
LOUISVILLE, KY 40222

09502423718800000000013405000134052

PROTECT YOUR CREDIT BY PAYING PROMPTLY



These calls were charged to your telephone number and have not been billed by your credit card company or telephone company. Payment is due upon receipt to ensure continued access to services.

09-502-423-7188

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DETAIL OF CHARGES

Date	Time	Service Used	From Number	To Number	Min.	Amount
6/08/94	09:25PM	NA	502-423-7188	800-879-7825	3.0	\$14.85
6/08/94	09:30PM	NA	502-423-7188	800-967-5465	20.0	\$59.60
6/08/94	09:54PM	NA	502-423-7188	800-967-5465	20.0	\$59.60
TOTAL AMOUNT						\$134.05

\$15.00 RETURN
CHECK FEE

Billing inquiries call
1-800-729-2800

Retain this portion
for your records

PROTECT YOUR CREDIT BY PAYING PROMPTLY



Page

DETAIL OF CHARGES

Date	Time	Service Used	From Number	To Number	Min.	Amount
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